

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NOS. 1225 & 1226
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Student Achievement April 24, 2008 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 1225 & 1226 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

4694L.04C

AN ACT

To repeal sections 162.261, 162.961, 162.963, 165.111, 168.110, and 168.126, RSMo, and to enact in lieu thereof eight new sections relating to elementary and secondary education, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 162.261, 162.961, 162.963, 165.111, 168.110, and 168.126, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 162.261, 162.961, 162.963, 165.111, 167.128, 168.110, 168.126, and 168.295, to read as follows:

162.261. 1. The government and control of a seven-director school district, other than an urban district, is vested in a board of education of seven members, who hold their office for three years, except as provided in section 162.241, and until their successors are duly elected and qualified. Any vacancy occurring in the board shall be filled by [the remaining members of the board; except that if there are more than two vacancies at any one time, the county commission upon receiving written notice of the vacancies shall fill the vacancies by appointment] **a public election conducted by the election authority with jurisdiction for the school district's elections under chapter 115, RSMo.** The person [appointed] **elected** shall hold office until the next municipal election, when a director shall be elected for the unexpired term.

2. No seven-director, urban, or metropolitan school district board of education shall hire a spouse of any member of such board for a vacant or newly created position unless the position

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 has been advertised pursuant to board policy and the superintendent of schools submits a written
13 recommendation for the employment of the spouse to the board of education. The names of all
14 applicants as well as the name of the applicant hired for the position are to be included in the
15 board minutes.

16 3. The provisions of article VII, section 6 of the Missouri Constitution apply to school
17 districts.

162.961. 1. A parent, guardian or the responsible educational agency may request a due
2 process hearing by the state board of education with respect to any matter relating to
3 identification, evaluation, educational placement, or the provision of a free appropriate public
4 education of the child. Such request shall include the child's name, address, school, issue, and
5 suggested resolution of dispute if known. Except as provided in subsection 4 of this section, the
6 board or its delegated representative shall within fifteen days after receiving notice empower a
7 hearing panel of three persons who are not directly connected with the original decision and who
8 are not employees of the board to which the appeal has been made. All of the panel members
9 shall have some knowledge or training involving children with disabilities, none shall have a
10 personal or professional interest which would conflict with his or her objectivity in the hearing,
11 and all shall meet the department of elementary and secondary education's training and
12 assessment requirements pursuant to state regulations and federal law and regulation
13 requirements of the Individuals With Disabilities Education Act. One person shall be chosen
14 by the local school district board or its delegated representative or the responsible educational
15 agency, and one person shall be chosen at the recommendation of the parent or guardian. If
16 either party has not chosen a panel member ten days after the receipt by the department of
17 elementary and secondary education of the request for a due process hearing, such panel member
18 shall be chosen instead by the department of elementary and secondary education. Each of these
19 two panel members shall be compensated pursuant to a rate set by the department of elementary
20 and secondary education. The third person shall be appointed by the state board of education
21 and shall serve as the chairperson of the panel. The chairperson shall be an attorney licensed to
22 practice law in this state. During the pendency of any three-member panel hearing, or prior to
23 the empowerment of the panel, the parties may, by mutual agreement, submit their dispute to a
24 mediator pursuant to section 162.959.

25 2. The parent or guardian, school official, and other persons affected by the action in
26 question shall present to the hearing panel all pertinent evidence relative to the matter under
27 appeal. All rights and privileges as described in section 162.963 shall be permitted.

28 3. After review of all evidence presented and a proper deliberation, the hearing panel,
29 within the time lines required by the Individuals With Disabilities Education Act, 20 U.S.C.
30 Section 1415 and any amendments thereto, shall by majority vote determine its findings,
31 conclusions, and decision in the matter in question and forward the written decision to the

32 parents or guardian of the child and to the president of the appropriate local board of education
33 or responsible educational agency and to the department of elementary and secondary education.
34 A specific extension of the time line may be made by the chairman at the request of either party,
35 except in the case of an expedited hearing as provided in subsection 4 of this section.

36 4. An expedited due process hearing by the state board of education may be requested
37 by a parent to challenge a disciplinary change of placement or to challenge a manifestation
38 determination in connection with a disciplinary change of placement or by a responsible
39 educational agency to seek a forty-five school day alternative educational placement for a
40 dangerous or violent student. The board or its delegated representative shall appoint a hearing
41 officer to hear the case and render a decision within the time line required by federal law and
42 state regulations implementing federal law. The hearing officer shall be an attorney licensed to
43 practice law in this state. The hearing officer shall have some knowledge or training involving
44 children with disabilities, shall not have a personal or professional interest which would conflict
45 with his or her objectivity in the hearing, and shall meet the department of elementary and
46 secondary education's training and assessment requirements pursuant to state regulations and
47 federal law and regulation requirements of the Individuals With Disabilities Education Act. A
48 specific extension of the time line is only permissible to the extent consistent with federal law
49 and pursuant to state regulations.

50 5. If the responsible public agency requests a due process hearing to seek a forty-five
51 school day alternative educational placement for a dangerous or violent student, the agency shall
52 show by substantial evidence that there is a substantial likelihood the student will injure himself
53 or others and that the agency made reasonable efforts to minimize that risk, and shall show that
54 the forty-five school day alternative educational placement will provide a free appropriate public
55 education which includes services and modifications to address the behavior so that it does not
56 reoccur, and continue to allow progress in the general education curriculum.

57 6. Any due process hearing request and responses to the request shall conform to the
58 requirements of the Individuals With Disabilities Education Act (IDEA). Determination of the
59 sufficiency shall be made by the chairperson of the three-member hearing panel, or in the case
60 of an expedited due process hearing, by the hearing officer. The chairperson or hearing officer
61 shall implement the process and procedures, including time lines, required by the IDEA, related
62 to sufficiency of notice, response to notice, determination of sufficiency dispute, and
63 amendments of the notice.

64 7. A preliminary meeting, known as a resolution session, shall be convened by the
65 responsible public agency, under the requirements of the IDEA. The process and procedures
66 required by the IDEA in connection to the resolution session and any resulting written settlement
67 agreement shall be implemented. **The responsible public agency or its designee shall sign the**
68 **agreement. The designee identified by the responsible public agency shall have the**

69 **authority to bind the agency. A local board of education, as a responsible public agency,**
70 **shall identify a designee with authority to bind the school district.**

162.963. 1. At any hearing held pursuant to the provisions of section 162.961, except
2 as otherwise provided in this section, either party or a representative shall be entitled to:

3 (1) Be accompanied and advised by counsel and by individuals with special knowledge
4 or training with respect to the problems of children with disabilities;

5 (2) Present evidence and confront, cross-examine, and compel the attendance of
6 witnesses;

7 (3) Prohibit the introduction of any evidence, including all evaluations and
8 recommendations based on the offering party's evaluation, at the hearing that has not been
9 disclosed to that party at least five business days before the hearing[, except this shall not be
10 applicable in the case of an expedited hearing where no discovery shall take place];

11 (4) Obtain a written or, at the option of the parents, electronic verbatim record of the
12 hearing; and

13 (5) Obtain written or, at the option of the parents, electronic findings of fact and
14 decision.

15 2. Parents involved in hearings have the right to have the child who is the subject of the
16 hearing present and the right to open the hearing to the public.

17 3. Prior to the resolution conference or hearing, the parent or guardian or a
18 representative of the parent or guardian shall have access to any reports, records, clinical
19 evaluations or other materials upon which the action to be reviewed was wholly or partially
20 based which could reasonably have a bearing on the correctness of the determination.

21 4. A complete record shall be made of all proceedings unless otherwise specified by
22 statute, which records shall include verbatim transcription of all testimony and shall include all
23 documents, writings, or other evidence presented by any party. Costs incurred during these
24 proceedings, except those of the parties for purchasing diagnostic services or legal counsel or
25 other services of a personal nature, shall be the responsibility of the state board of education.

165.111. 1. The school board of each district, for any year for which it does not cause
2 an audit to be performed by October thirty-first after the close of the school year, shall make and
3 publish, not later than September first, in some newspaper as described in section 493.050,
4 RSMo, published in the school district, and if there is none then in some newspaper of general
5 circulation within the district, a statement of all receipts of school moneys, when and from what
6 source derived, and all expenditures, and on what account; also, the present indebtedness of the
7 district and its nature, and the rate of taxation for all purposes for the year, **including the**
8 **property tax rate.** The statement shall be duly attested by the president and secretary of the
9 board, and the secretary shall forward a copy to the state board of education on forms prescribed
10 by the board.

11 2. The school board of each district for any given year shall provide a full detailed
12 financial statement that will include the names and total compensation packages of the
13 district's superintendent, and all assistant superintendents. If consultants are hired for
14 administrative duties, the district shall publish the total compensation package of each
15 consultant, and the disclosure shall be made separate for each individual administrator.
16 The statement shall be forwarded to the department of elementary and secondary
17 education, and all the information included in the statement required under this subsection
18 shall be published on the department's Internet web site.

19 3. For purposes of subsection 2 of this section, "total compensation package"
20 includes, but is not limited to, base salary, retirement benefits, annuities, dues and club
21 memberships, individual or season tickets to any sporting events, amusement parks, or
22 community entertainment events, concerts, housing and auto allowances, mileage
23 reimbursements, entertainment allowances, cell phone or personal digital assistant and
24 service contract, deferred compensation, buy-out clause, pay-for-performance goals,
25 donations from school foundations, and any other valuable consideration provided as cash,
26 credit, or services as a result of employment, expressed in dollars.

27 4. The state board of education shall not release the state aid apportioned to the district
28 for the next ensuing school year until a copy of the required statement has been received at its
29 office in Jefferson City and has been approved by it. Any school board which fails, refuses or
30 neglects to order the statement to be made, and any officer of the board who fails, refuses, or
31 neglects to prepare, publish and forward the statement, as required by this section, when ordered
32 by the board, is guilty of a misdemeanor and punishable by a fine not to exceed one hundred
33 dollars. Annual or biennial audit summaries shall be published according to section 165.121.

167.128. 1. The educational needs of each child under the jurisdiction of the
2 **juvenile court or family court under subdivision (1), (2), or (5) of subsection 1 of section**
3 **211.031, RSMo, shall be considered as part of the function of the child's family support**
4 **team pursuant to policy of the department of social services. Such needs shall include, but**
5 **not be limited to, the assumption that regular full school days of education are warranted.**
6 **For the purposes of this section, "full school day" shall mean six hours in which the child**
7 **is under the guidance and direction of teachers in the education process. The local school**
8 **district shall be invited to have representation on the child's family support team.**

9 2. Nothing in this section shall be construed to infringe upon the rights or due
10 process provisions of the federal Individuals with Disabilities Education Act. Nothing in
11 this section shall be construed to impede the ability of the family support team or the
12 facility staff from making a referral for special education services, if appropriate, when a
13 child is placed in a facility described in this section without an individualized education
14 program or without a pending referral for such services. If a child is referred for such

15 services, the provisions of the Individuals with Disabilities Education Act shall apply and
16 control while the referral is pending and through the evaluation process, including
17 provisions for educational decision-makers and educational surrogates. Nothing in this
18 section shall be construed to deny any child domiciled in Missouri appropriate and
19 necessary free public education services.

20 **3. When the department of social services by contract places a child for treatment**
21 **in a licensed residential care facility setting for children as defined in section 210.481,**
22 **RSMo, such facility shall be responsible for the educational needs of the child if the child**
23 **at the time of placement does not have an individualized education program or a pending**
24 **referral for special education services under sections 162.670 to 162.999, RSMo.**

25 **(1) Such facilities operating an on-site school for which they hire their own**
26 **education staff shall:**

27 **(a) Provide, on site at such facility, a full school day of education for each child**
28 **placed in such facility by the department of social services unless the child's plan of**
29 **treatment and care supports his or her ability to attend public school; and**

30 **(b) Be reimbursed by the local school district for the full cost of education services**
31 **provided to children placed in their care by the department of social services when the**
32 **facility provides education services. The local school district shall be compensated under**
33 **section 167.126, for such education services.**

34

35 **No child placed in the facilities for treatment described in this subdivision shall be**
36 **considered by the local school district as homebound for purposes of education unless the**
37 **family support team under subsection 1 of this section has approved homebound**
38 **instruction. A full school day of education shall be provided unless fewer hours of**
39 **instruction per day are approved by the family support team under subsection 1 of this**
40 **section. Nothing in this subdivision shall create an obligation for a licensed residential care**
41 **facility to have on-site classrooms, to operate an on-site school, or to hire its own education**
42 **staff.**

43 **(2) When such facilities have on-site classrooms but do not hire their own education**
44 **staff, the local school district:**

45 **(a) Shall provide, on site at such facility, a full school day of education for each**
46 **child placed in such facility for care by the department of social services unless the child's**
47 **plan of treatment and care supports his or her ability to attend public school;**

48 **(b) Shall be compensated under section 167.126 for such education services; and**

49 **(c) May consider such education services as homebound instruction but shall**
50 **provide each homebound child with a full school day of education unless fewer hours of**

51 instruction per day are approved by the family support team under subsection 1 of this
52 section.

53

54 Nothing in this subdivision shall create an obligation for a licensed residential care facility
55 to have on-site classrooms, to operate an on-site school, or to hire its own education staff.

56 (3) When such facilities do not operate an on-site school or have on-site classrooms,
57 the local school district shall:

58 (a) Provide a full school day of education for each child placed in such facility for
59 care by the department of social services; and

60 (b) Be compensated for such education services under section 167.126.

61

62 If the child's behavior or plan of treatment and care does not support the child's being
63 educated in a regular education class, education services shall be provided in an alternative
64 setting approved by the family support team under subsection 1 of this section. A full
65 school day of education shall be provided unless fewer hours of instruction per day are
66 approved by the family support team under subsection 1 of this section. Nothing in this
67 subdivision shall create an obligation for a licensed residential care facility to have on-site
68 classrooms, to operate an on-site school, or to hire its own education staff.

69 4. Notwithstanding any other provision of law, a child placed for treatment by the
70 department of social services in a licensed residential care facility setting for children as
71 defined in section 210.481, RSMo, who does not have an individualized education program
72 for special education services or a pending referral for such services under sections 162.670
73 to 162.999, RSMo, whose plan of treatment and care supports his or her ability to attend
74 public school but who is then suspended or otherwise demonstrates school failure based
75 on behavior or academic performance shall then be provided a full school day of education
76 according to subsection 3 of this section.

77 5. Nothing in this section shall prevent a licensed residential care facility setting for
78 children as defined in section 210.481, RSMo, from contracting with school districts for
79 education services. Nothing in this section shall prevent a school district from contracting
80 with a licensed residential care facility setting for children as defined in section 210.481,
81 RSMo, for education services.

82 6. (1) Any residential treatment facility that expects the local public school district
83 to provide educational services for students of the treatment facility shall work with the
84 district and develop an educational plan that describes in general how full-day educational
85 services will be provided to school-aged residents of the treatment facility under a variety
86 of possible circumstances. The educational plan shall be developed jointly by the
87 appropriate staff of both the treatment facility and the public school district, and the plan

88 shall be signed annually by the administration of both parties verifying their support for
89 the plan.

90 (2) It is the intent that the educational plan follow the provisions of this section, but
91 treatment facilities and school districts may develop provisions for educational services not
92 included in this section if both parties agree on the provisions and if the provisions offer
93 a full-day educational program for the students involved.

94 (3) It is understood as a condition of the plan that both the treatment facility and
95 school district shall be fully reimbursed, as allowed by law in accordance with the
96 availability of funds, for their portions of the cost of providing educational services
97 through such sources as basic state aid, local district bill-back, and excess cost
98 reimbursement, as well as other possible sources.

99 (4) Each treatment facility and school district shall furnish a signed copy of their
100 educational plan to the department of elementary and secondary education and to the
101 department of social services no later than September fifteenth of each year.

102 7. Nothing in this section shall prohibit any parent or legal guardian from pursuing
103 any other course of education otherwise provided for under section 167.031, RSMo.

168.110. 1. The board of education of a school district may modify an indefinite
2 contract annually on or before the fifteenth day of May in the following particulars:

3 (1) Determination of the date of beginning and length of the next school year;

4 (2) Fixing the amount of annual compensation for the following school year as provided
5 by the salary schedule adopted by the board of education applicable to all teachers who are
6 similar in relevant experience and credentials, not limited to years of teaching experience
7 and academic credentials. A salary schedule may include other qualifications in addition
8 to experience and credentials, such as measurable classroom performance, as long as the
9 schedule applies equitably to all teachers who are similar in such qualifications.

10 2. Districts may provide a salary that includes hiring incentives or salary schedule
11 modifications, which may include but are not limited to credit for all prior years of service
12 in another district, to attract and retain teachers based upon demonstrated need for
13 teachers certified in shortage areas. Districts may also provide such incentives or schedule
14 modifications to attract and retain teachers with experience or credentials that are
15 exceptionally well-suited to a district's needs for academic improvement. In exchange for
16 such incentives, teachers may be required to teach in the district offering the incentive for
17 a period of up to three school years. Districts shall have the decision-making authority on
18 whether to provide such incentives and modifications within the limits of this section.

19 3. The modifications shall be effective at the beginning of the next school year. All
20 teachers affected by the modification shall be furnished written copies of the modifications
21 within thirty days after their adoption by the board of education.

168.126. 1. A board of education at a regular or special meeting may contract with and employ by a majority vote legally qualified probationary teachers for the school district. The contract shall be made by order of the board; shall specify the number of months school is to be taught and the wages per month to be paid; shall be signed by the probationary teacher and the president of the board, or a facsimile signature of the president may be affixed at his discretion; and the contract shall be attested by the secretary of the board by signature or facsimile.

Contracts may be modified as described in section 168.110.

2. The board shall not employ one of its members as a teacher; nor shall any person be employed as a teacher who is related within the fourth degree to any board member, either by consanguinity or affinity, where the vote of the board member is necessary to the selection of the person.

[2.] 3. If in the opinion of the board of education any probationary teacher has been doing unsatisfactory work, the board of education, through its authorized administrative representative, shall provide the teacher with a written statement definitely setting forth his alleged incompetency and specifying the nature thereof, in order to furnish the teacher an opportunity to correct his fault and overcome his incompetency. If improvement satisfactory to the board of education has not been made within ninety days of the receipt of the notification, the board of education may terminate the employment of the probationary teacher immediately or at the end of the school year. Any motion to terminate the employment of a probationary teacher shall include only one person and must be approved by a majority of the members of the board of education. A tie vote thereon constitutes termination. On or before the fifteenth day of April in each school year, the board of education shall notify in writing a probationary teacher who will not be retained by the school district of the termination of his employment. Upon request, the notice shall contain a concise statement of the reason or reasons the employment of the probationary teacher is being terminated. If the reason for the termination is due to a decrease in pupil enrollment, school district reorganization, or the financial condition of the school district, then the district shall in all cases issue notice to the teacher expressly declaring such as the reason for such termination. Nothing contained in this section shall give rise to a cause of action not currently cognizant at law by a probationary teacher for any reason given in said writing so long as the board issues the letter in good faith without malice, but an action for actual damages may be maintained by any person for the deprivation of a right conferred by this act.

[3.] 4. Any probationary teacher who is not notified of the termination of his employment shall be deemed to have been appointed for the next school year, under the terms of the contract for the preceding year. A probationary teacher who is informed of reemployment by written notice shall be tendered a contract on or before the fifteenth day of May, and shall within fifteen days thereafter present to the employing board of education a written acceptance

38 or rejection of the employment tendered, and failure of such teachers to present the acceptance
39 within such time constitutes a rejection of the board's offer. A contract between a probationary
40 teacher and a board of education may be terminated or modified at any time by the mutual
41 consent of the parties thereto.

**168.295. 1. This section shall be known and may be cited as the "Teacher Bill of
2 Rights Act".**

3 **2. No Missouri teacher association within or operating within this state shall use**
4 **or obtain any portion of dues or any other fees paid by a member of the association or**
5 **individuals who are not members through payroll deduction or directly for disbursement**
6 **to a committee, as defined in section 130.011, RSMo, except upon the written consent of the**
7 **member or an individual who is not a member received within the previous twelve months**
8 **on a form described in subsection 4 of this section which is signed by the member or**
9 **nonmember and official of the association.**

10 **3. Subsection 2 of this section shall not apply to any dues or fees collected from**
11 **members of the association or individuals who are not members for the benefit of**
12 **charitable organizations organized under 26 U.S.C. Section 501(c)(3) or for health care**
13 **insurance or similar purposes intended to directly benefit the specific member of the**
14 **association or individual who is not a member.**

15 **4. The authorization form referred to in subsection 2 of this section shall contain**
16 **in no smaller than twenty-four-point type the statement "Consent for political use of dues**
17 **or fees or request to make political contributions.", and in no smaller than fourteen-point**
18 **type the following information:**

19 **(1) Authorization to use the member's or nonmember's dues or other fees during**
20 **the next twelve months as a political contribution or expenditure;**

21 **(2) A specified amount by the member or nonmember to contribute;**

22 **(3) The committee the member or nonmember wishes to contribute the dues or**
23 **fees;**

24 **(4) Name and signature of the employee; and**

25 **(5) Name and signature of the association.**

26 **5. Any teacher association that uses a portion of the dues or other fees to make**
27 **contributions or expenditures under subsection 2 of this section shall maintain records that**
28 **include a copy of each authorization obtained under subsection 4 of this section, the**
29 **amounts and dates funds were actually withheld, the amounts and dates funds were**
30 **transferred to a committee, and the committee to which the funds were transferred.**
31 **Records maintained under this subsection shall not include the employee's home address**
32 **or telephone number.**

33 **6. Copies of all records maintained under subsection 5 of this section shall not be**
34 **subject to chapter 610, RSMo.**

35 **7. Individuals who do not authorize contributions or expenditures under subsection**
36 **2 of this section shall not have their dues or other fees raised in lieu of the contribution or**
37 **expenditure.**

38 **8. If the dues or other fees referred to in subsections 2 and 4 of this section included**
39 **an amount for a contribution or expenditure, the dues or other fees shall be reduced by**
40 **that amount for any individual who does not sign an authorization as described in**
41 **subsection 2 of this section.**

42 **9. The requirement of this section shall not be waived by the member or individual,**
43 **and waiver of these requirements shall not be made a condition of employment or**
44 **continued employment.**

✓

Bill

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